Before the Federal Communications Commission Washington, D.C. 20554

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In the Matter of)	
)	
Jeffrey Amedro) File No. EB-03-CF-20	5
dba Cell Page) NAL/Acct. No. 200332	2340006
Morgantown, West Virginia) FRN 0009-5345-61	
)	

FORFEITURE ORDER

Adopted: September 7, 2004 Released: September 9, 2004

By the Chief, Enforcement Bureau:

1. In this *Forfeiture Order* ("*Order*") we issue a monetary forfeiture in the amount of ten thousand dollars (\$10,000) to Jeffrey Amedro dba Cell Page ("Cell Page") for willful and repeated violation of Section 301 of the Communications Act of 1934, as amended ("Act"). The noted violation involved Cell Page's operation of radio transmitting equipment on the frequency 157.740 MHz without an instrument of authorization.

2. In a September 5, 2003 *Notice of Apparent Liability for Forfeiture* ("*NAL*"),² the District Director of the Commission's Columbia, Maryland Office ("Columbia Office") issued a monetary forfeiture in the amount of \$10,000 to Cell Page for repeatedly operating its station without a valid instrument of authorization after receiving a warning that such operation was in violation of the Act. Cell Page does not contest the subject violation. In its October 16, 2003 response, Cell Page requests reduction or cancellation of the proposed forfeiture. Presumably, intending to claim its inability to pay the forfeiture, Cell Page states that it has been in contact with a certified public accountant to complete its tax returns. Once completed, Cell Page states that it will forward three years of tax returns to the Enforcement Bureau by approximately October 31, 2003. Cell Page still has not submitted its tax returns.³ Without the appropriate financial documentation, we can not consider Cell Page's claim of inability to pay;⁴ therefore, we deny its request for reduction or cancellation of the forfeiture.⁵

¹ 47 U.S.C. § 301.

² Notice of Apparent Liability for Forfeiture, NAL/Acct. No. 200332340006 (Enf. Bur., Columbia Office, released September 5, 2003).

³ Commission staff contacted Mr. Amedro prior to completion of this order to request copies of the tax returns. Mr. Amedro informed the staff that the tax returns still were not prepared.

⁴ As stated in the *NAL*, the Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices ("GAAP"); or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. *NAL* at para. 10. The Commission has long recognized that, although gross revenues are the primary indicator of a licensee's ability to pay a forfeiture, other financial indicators can be considered. *PJB Communications of Virginia, Inc.*, 7 FCC Rcd 2088 (1991).

⁵ See Michael S. Selvanto, DA 04-2488 (released August 10, 2004) (finding no basis upon which to cancel or reduce a forfeiture where no financial documentation was presented to demonstrate inability to pay).

- 3. Accordingly, **IT IS ORDERED THAT**, pursuant to Section 503(b) of the Act⁶, and Sections 0.111, 0.311 and 1.80(f)(4) of the Commission's Rules,⁷ Cell Page **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of ten thousand dollars (\$10,000) for its willful and repeated violation of Section 301 of the Act.
- 4. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules within 30 days of the release of this *Order*. If the forfeiture is not paid within the period specified, the case may be referred to the Department of Justice for collection pursuant to Section 504(a) of the Act. Payment of the forfeiture must be made by check or similar instrument, payable to the order of the "Federal Communications Commission." The payment must include the NAL/Acct. No. and FRN No. referenced above. Payment by check or money order may be mailed to Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. Payment by overnight mail may be sent to Bank One/LB 73482, 525 West Monroe, 8th Floor Mailroom, Chicago, IL 60661. Payment by wire transfer may be made to ABA Number 071000013, receiving bank "Bank One," and account number 1165259. Requests for full payment under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.
- 5. **IT IS FURTHER ORDERED THAT** a copy of this *Order* shall be sent by first class mail and certified mail, return receipt requested, to Jeffrey Amedro dba Cell Page, 440 Spruce Street, Morgantown, West Virginia 26505.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon Chief, Enforcement Bureau

⁶ 47 U.S.C. § 503(b).

⁷ 47 C.F.R. §§ 0.111, 0.311, 1.80(f)(4).

⁸ 47 U.S.C. § 504(a).

⁹ See 47 C.F.R. § 1.1914.